A
SUMMARY
OF THE
COMMON LAW
OF
England.

As it ſtood in force, before
was altered by Statute or Acts of
PARLIAMENT.

Extracted (for the moſt part) out of
French and Engliſh Copies of Sir
HENRY FINCH, K^t. his
Learned Treatiſe of
the *LAW.*

And digeſted into certain
Tablets for the help and delight of
ſuch Students, as affect
Method.

Methodus Memoriæ Dux & Fulcrum

LONDON:
Printed *Anno Salutis,*

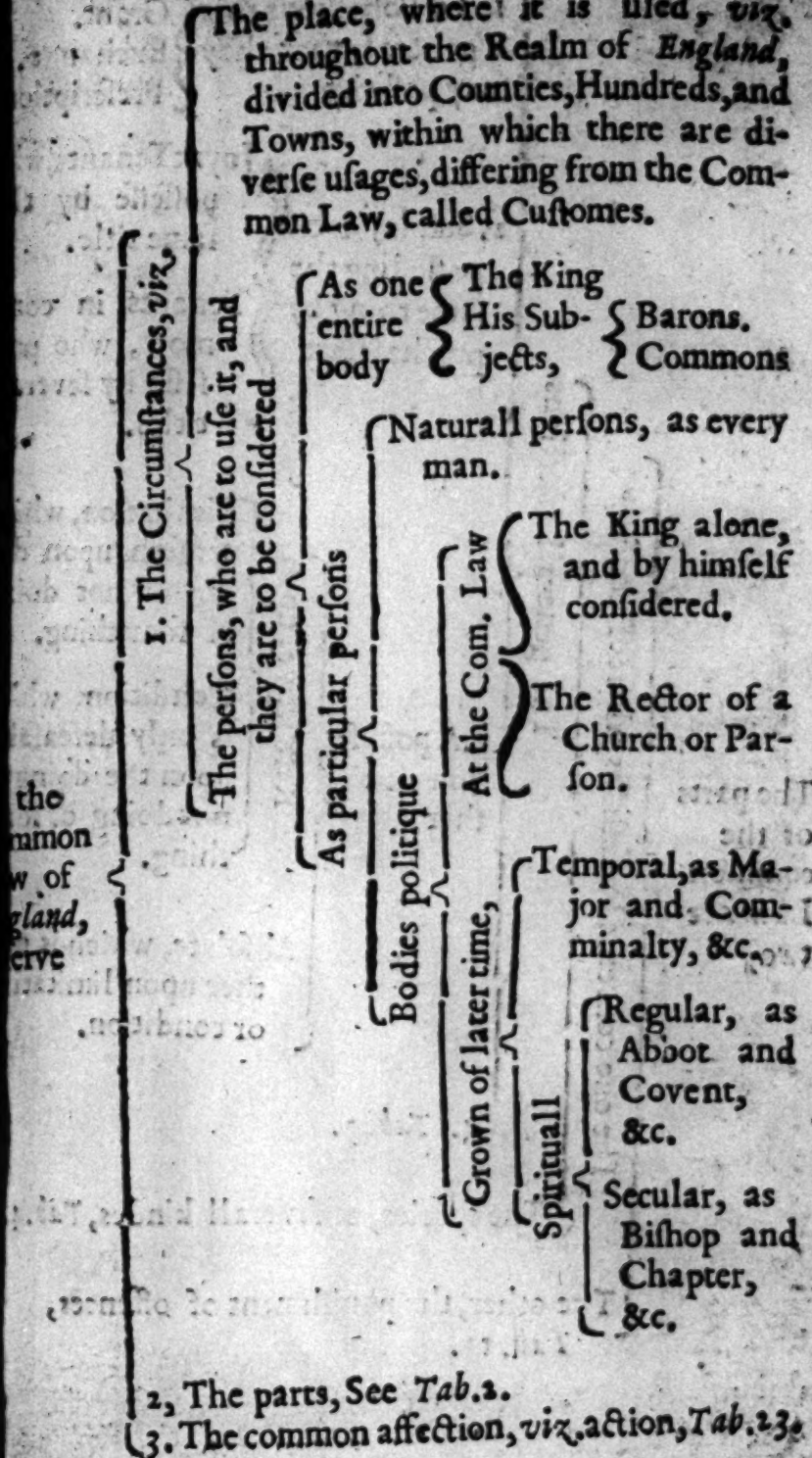
HARVARD COLLEGE LIBRARY
GIFT OF
REV. JOHN S. PENMAN
(COLLECTION OF W. W. LAW)

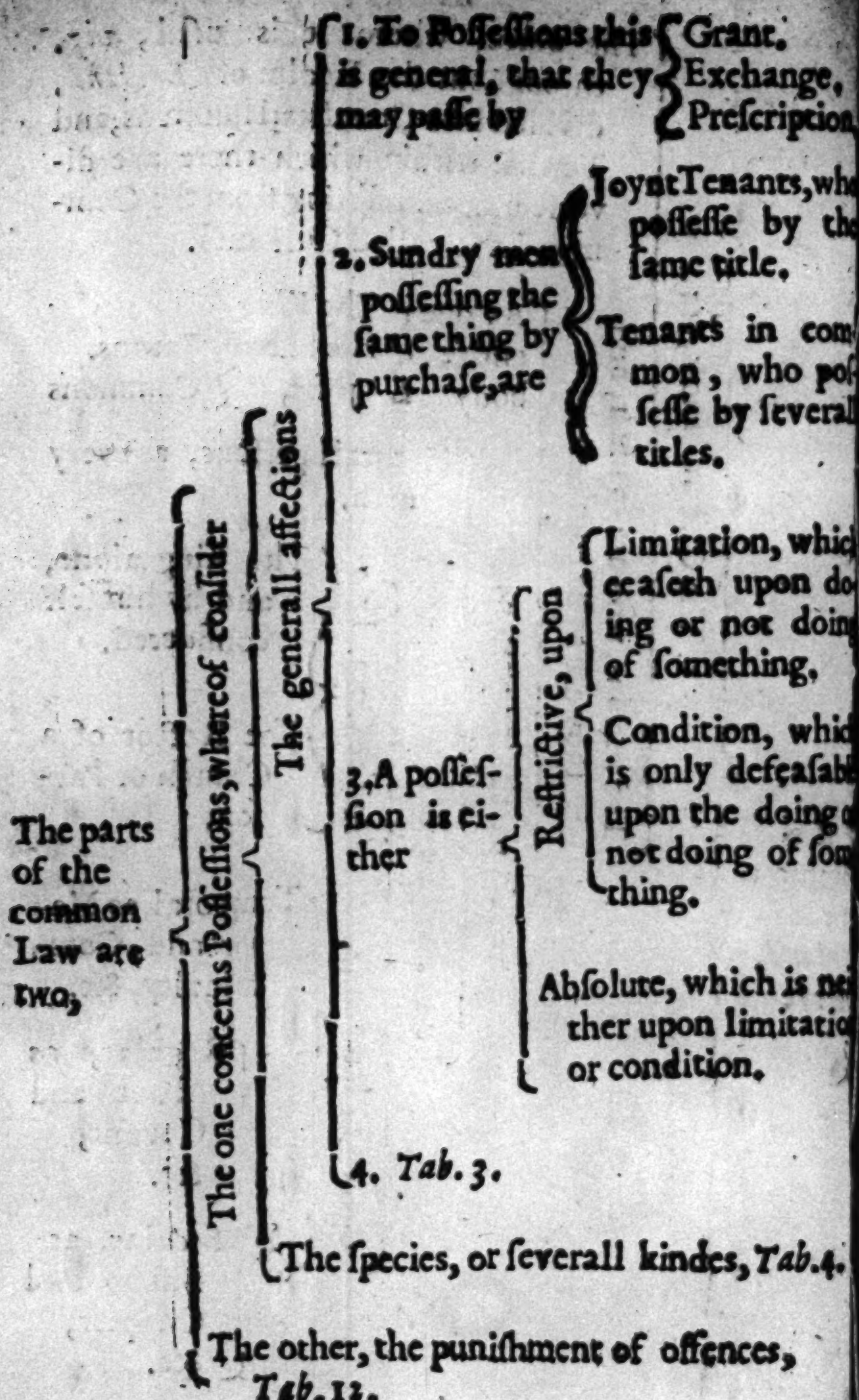
*EC65.W7267.6548

AN ADVERTISEMENT TO THE READER.

THe Science of the Common Law of England, hath not only been in former times, but even at this day, is accounted so abstruse and intricate, that it hath always seemed an Impossibility to reduce it to method: Howbeit, our learned Author in his Treatise of the Law, hath not only clothed it with a Logical method, but with such an exact one, as may be paralleld with (if not excelled above) that of Wollebius for Theologie, Ramus for Geometry, Keckerman, Alstedius, and other modern Writers, for Logick, Ethiques, Physiques, Politiques, Mathematiques, &c. So as the Student having treasured up in his memory the common places of Law held forth in these Tablets, together with their coherence and dependance one upon another, may be thereby furnished with all the generall and necessary Titles of Law, where-

whereunto he may aptly refer any Case
meets with, especially, having also bef
hand, by perusing the Treatise at large
quainted himselfe with the definitions,
stributions, affections, Rules and Exampl
respectively belonging to each severall Ti
whereby he may more perfectly unders
the nature of them. Besides, if the Text
not read with these Tablets, *he will m*
with diverse things in them which are n
abrogated by Statute, and so not Law at t
day, as Sanctuaries, *which are now annul*
by 21 Jac. 28. *diverse offences (befo*
Pety Treason, *now by Statute made* Hi
Treason, *and the like. All which is lef*
his industry and discretion: the scope
designe of this Summary *being only to sh*
him the Harmonicall frame of the origin
Common Law before it was altered by Stat
Acts of Parliament, and other Constitutio
of State, according to the caution before
the Title Page premised.


1. The Circumstances, viz.
The place, where it is used, viz. throughout the Realm of England, divided into Counties, Hundreds, and Towns, within which there are diverse usages, differing from the Common Law, called Customes.
The persons, who are to use it, and they are to be considered
As one entire body
The King
His Subjects,
Barons.
Commons
As particular persons
Naturall persons, as every man.
Bodies politique
At the Com. Law
The King alone, and by himself considered.
The Rector of a Church or Parson.
Grown of later time,
Temporal, as Major and Comminalty, &c.
Spirituall
Regular, as Abbot and Covent, &c.
Secular, as Bishop and Chapter, &c.
the
mmon
w of
gland,
erve
2, The parts, See Tab. 2.
3. The common affection, viz. action, Tab. 23.


The parts of the common Law are two,
The one concerns Possessions, whereof consider
The generall affections
1. To Possessions this is generall, that they may passe by
Grant.
Exchange,
Prescription.
2. Sundry men possessing the same thing by purchase, are
Joynt Tenants, who possesse by the same title.
Tenants in common, who possesse by severall titles.
3. A possession is either
Restrictive, upon
Limitation, which ceaseth upon doing or not doing of something.
Condition, which is only defeasable upon the doing or not doing of something.
Absolute, which is neither upon limitation or condition.
4. Tab. 3.
The species, or severall kindes, Tab. 4.
The other, the punishment of offences, Tab. 12.

4. Possessions are either in
- Possession, *viz.* such as one doth enjoy.
- Action, touching which consider
  - 1. How it ariseth, & that is in respect of a
    - Right, when wrong was done before.
    - Title, when no wrong was done.
  - 2. The Rules wch concern it
    - 1. A thing in action cānot be granted, but to him in possession, & that by
      - Releas, which is the passing of the grantors Interest.
      - Confirmation, wch is the ratifying of the grantees possession.
    - 2. The grant of a thing in action, and of such things in possession, as cannot passe by livery of the hand, must be by Deed. *viz.*
      - Deed Pol, which is the only deed of the Grantor.
      - Indenture, which is the mutuall deed of both, and makes an Estopel to both parties.

TABLE 4.

The ſeverall kinds of Poſſeſſions, & ſo a Poſ. is

- An Hereditament whereof conſider
  - The ſeverall Eſtates, viz.
    - Particular, viz.
      - Certain, which is alſo called a term, whereof conſider
        - The ſeverall kindes.
          - For years.
          - For life
            - In deed after actual ſeiſin.
              - For his own life.
              - For anothers life, & theſe are
            - In Law before entry
            - Freehold
        - The dependants
          - Remainder, wᵗʰ is the reſidue of an eſtate at the ſame time appointed over.
          - Reverſion, which is the reſidue of an eſtate, not at the ſame time appointed over.
          - Theſe paſſe with Attornement.
      - Uncertain
        - At ſufferance, when after lawfull occupation he continueth poſſeſſion without authority.
        - At will
          - According to the cuſtom, as a Copiholder.
          - At pleaſure, as a bare Tenant at will.
          - Theſe paſs by ſurrēder
    - Inheritance. *Tab.* 5.
  - The ſeuerall kindes. *Tab.* 6.
- Chattel. *Tab.* 11.

TABLE 5.

Inheritance, whereof consider

- The estate called fee-simple, which is
  - Conditionall, when an Hereditament is limited to the heires of the body: Hither Frank-marriage may be referred.
  - Absolute, which is a fee simple to one and his heirs whatsoever.
- The incidents
  - Dower, whereby a woman hath the thirds in severalty.
  - Tenancie, by the courtesie of *England*.
- The diverse manners of possessing it, *viz.* in
  - Deed.
  - Law.

TABLE 6.

The severall kinds of an Hereditamét, and so it is

- Common, as
  - ATenement, wch is a possessionholdé, and it is
    - Land, which is a Tenemét in manuall occupation, and here prescription hath no place.
    - An Advowson, which is the interest of presenting to a Church.
  - A bare hereditament, *Tab.* 7.
- Prerogative. *Tab.* 10.

TABLE 7.

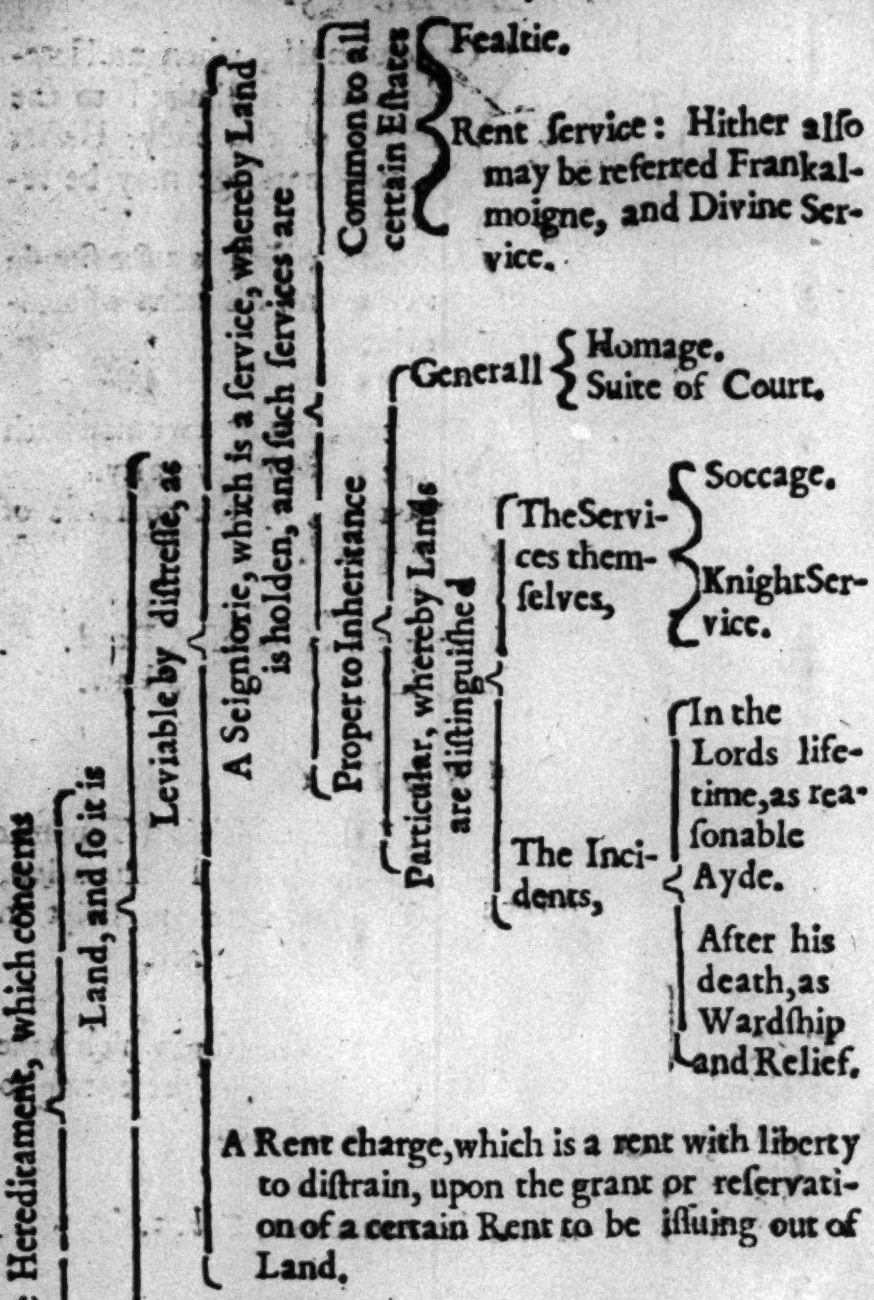

A bare Hereditament, which concerns
Land, and so it is
Leviable by distresse, as
A Seigniorie, which is a service, whereby Land is holden, and such services are
Common to all
certain Estates
Fealtie.
Rent service: Hither also may be referred Frankalmoigne, and Divine Service.
Proper to Inheritance
Generall
Homage.
Suite of Court.
Particular, whereby Lands are distinguished
The Services themselves,
Soccage.
Knight Service.
The Incidents,
In the Lords lifetime, as reasonable Ayde.
After his death, as Wardship and Relief.
A Rent charge, which is a rent with liberty to distrain, upon the grant or reservation of a certain Rent to be issuing out of Land.
Such as cannot be distrained for. Tab. 8.
The person. Tab. 9.

TABLE 8.

A bare Hereditament concerning Land, for which no distress can be taken, is

- Rent secke, which is a rent without liberty to distrain.
- Common, which is a profit to be taken in anothers land; whither also may be referred Ellovers, Houseboot, &c. Also a way over Land, liberty to Fish, Hunt, draw water, or the like.

TABLE 9.

A bare hereditament, that concerns the person, is

- Of the person himselfe, as a Villein.
- By reason of the person, *viz.*
  - An Annuity, which is a yearly rent to be had of the person of the grantor.
  - A Corodie, which is a portion for ones sustenance or cloathing.
  - An Office, which is a dury of attendance upon a charge.

A Prerogative hereditament, which is derived from the Kings prerogative, and is termed a Franchiſe, being a Royall priviledge in the hands of a Subject; as Markets, Faires, Toll, and whatſoever liberties elſe, which (created at firſt by the Kings ſpeciall grant, or of their own nature belonging to him) are given to a common perſon to have an eſtate in: Of this ſort alſo are Execution and Return of Writs, forfeited Recognizances, Fines, Poſt-fines, Iſſues, Amerciaments, and other Green wax money within ſuch a Precinct or Liberty. Alſo power there to make a Coroner, Clerk of the Market, and other Officers; to have therein Treaſure, Trove, Deodands, Wreck of the Sea, Waiſes, Eſtrayes, the goods of Felons, and outlawed perſons, Royall mines, Royall Fiſh; to keep a Leet, to take Conuſance of Fines, to hold plea of debts and damages, Sans ſumme, and the like.

A Chattel, wherein there cannot be severall estates whereof consider

The common affection, *viz.* That all ones own Chattels (whether in possession or action, as debts, &c.) may be devised by Testament, which is the appointment of an Executor to administer them for him after his death.

The severall kindes, and so it is

Real, as a term for years, or Wardship.

Personall, to which diverse things belong.

In generall

Bailment, which is the delivery of goods

To keepe, when only the custodie is committed to him, and that is

A simple bailement, when he receiveth them to keepe for another.

A Pledge, when he receiveth them for another thing had of him at the time.

To employ, as when the Bailee hath the things to use for anothers profit.

Contract, which is a mutuall agreement for the very property of personal things.

In particular, *viz.* for the Interest of things uncertain, as

Accord, which is an agreement of the parties themselves upon satisfaction executed.

Arbitrement, which is an award of satisfaction by others.

Punishment of Offences, which are

- Without force, as
  - Trespasse upon the Case
    - Common, as
      - Misuser, when by wrong one is endamaged, as by slander, or the like, amongst which observe
        - Disturbance, wch is the hindering of that, which belongeth to one to do.
        - Nusance, which is an annoyance done to ones Hereditament.
      - Deceit, when the damage groweth by an undue sleight or the like.
      - Conspiracie, where two or more conspire to do one wrong, or the like.
    - Offences in the nature of Trespasses upon the Case, which are (by the Kings prerogative) punishable like to them, *viz.* by amerciament; as Nonsuit in an action; Fault in the original Writ he brings; Or (by the sheriffe) in the return thereof; Making default, when he should appear; And whatsoever other offences (not being with force) which offer no direct injury to a common person.
  - Reall wrong, *Tab.* 13.
- Coupled with force. *Tab.* 14.

A reall wrong is

- Ouster, When a Freeholder is put out, as
  - Of the first sort
    - Disseisin of
      - Land when one is put or held out by a forcible { Entry. / Detainer.
      - Rent, as
        - In every rent by { Incloser. / Forstaller.
        - In rent service & rent charge by { Rescous. / Replevin.
        - In rent charge and rent secke, by denier.
    - Usurpation, when the Church becometh full by the presentment of a wrong Patron.
  - Of the secõd sort,
    - Intrusion, Which is after the death of the Tenant for life.
    - Abatement, Which is after the death of one that had the Inheritance.
- Discontinuance, when one having an Estate Taile or Feesimple in anothers right, maketh a larger Estate of the land, then he may.

TABLE 14.

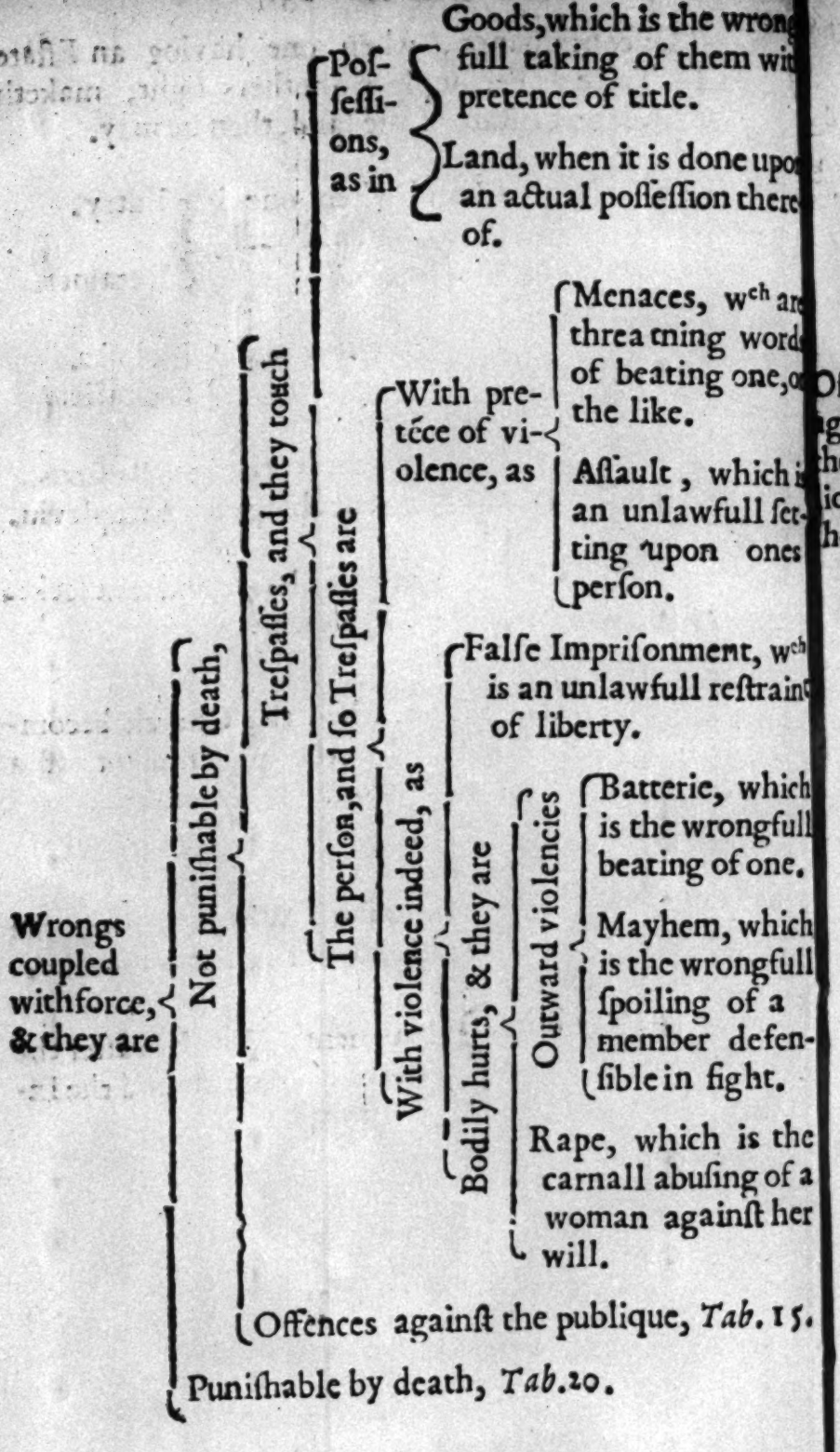

Wrongs coupled withforce, & they are
Not punishable by death,
Trespasses, and they touch
The person, and so Trespasses are
With violence indeed, as
Bodily hurts, & they are
Outward violencies
Batterie, which is the wrongfull beating of one.
Mayhem, which is the wrongfull spoiling of a member defensible in fight.
Rape, which is the carnall abusing of a woman against her will.
With pretece of violence, as
Menaces, wch are threatning words of beating one, or the like.
Assault, which is an unlawfull setting upon ones person.
False Imprisonment, wch is an unlawfull restraint of liberty.
Possessions, as in
Goods, which is the wrongfull taking of them with pretence of title.
Land, when it is done upon an actual possession thereof.
Offences against the publique, Tab. 15.
Punishable by death, Tab. 20.

TABLE 15.

Offences against the publique, and they are

- Against the King, which are called contempts, as
  - 1. To disobey the Kings command
    - By his Writ
    - By his Proclamation.
  - 2. To disobey any thing ordained by Statute.
- Against the cõmon wealth, *viz.* against
  - 1. The peace thereof, as Riots, Routs, unlawfull Assemblies, breach of the peace, and Good behaviour, false news, Barratring, Eves-dropping, &c. Also all trespasses with force, for which a man may both be both indicted, and prosecuted at Law by the suite of the partie.
  - 2. The strength, as to send aide to the Kings enemies, to go beyond sea without the Kings Licence, &c.
  - 3. The Justice, *Tab.*16.
  - 4. The Wealth, *Tab.*18.
  - 5. The Passages. *Tab.*19.

3. Publique Offences againſt the Juſtice of the Comon wealth; as

1. Perverting of Juſtice, as Corrupt Judges, who pervert Juſtice; Corrupt or negligent Officers; Enditors, Corrupt Jurors Extortion; Eſcapes, negligent and voluntary. &c.

2. All force againſt the Juſtice of the Realm as Reſcous of a Fellon or others; Affrais in diſturbance of Juſtice; to go armed in the Kings Palace: To ſtrike in *Weſtminſter* Hall, for which he ſhall loſe his right hand; ſo ſhall he that ſtrikes a Juror in the preſence of the Juſtices, and be alſo committed to perpetuall Impriſonment.

3. Conventicles, which comprehend conſpirators and confederators, Maintenance Champartie, &c.

4. Offences in favour of Malefactors. *Tab.* 17.

4. Offences in favour of Malefactors, as Miſpriſions of Treaſon or Felonie, which for Treaſon is perpetuall imprisonment: Theft-boot, when a man receives his goods from a Theefe, with purpoſe to favour and maintain him; here the puniſhment is Ranſome and Imprisonment; not aſſiſting the Sheriffe, Conſtable, or other Officer, &c.

5. Contempt of Juſtice, as he that flies for Treaſon or Felonie: He that in caſe of Treaſon or Felonie tarries the Exigent; He that ſuffers himſelfe to be outlawed, &c.

6. Falſifying of Juſtice, as Perjury, Subornation, Forgery, Embracery: all other Falſhood in matter of Juſtice, &c.

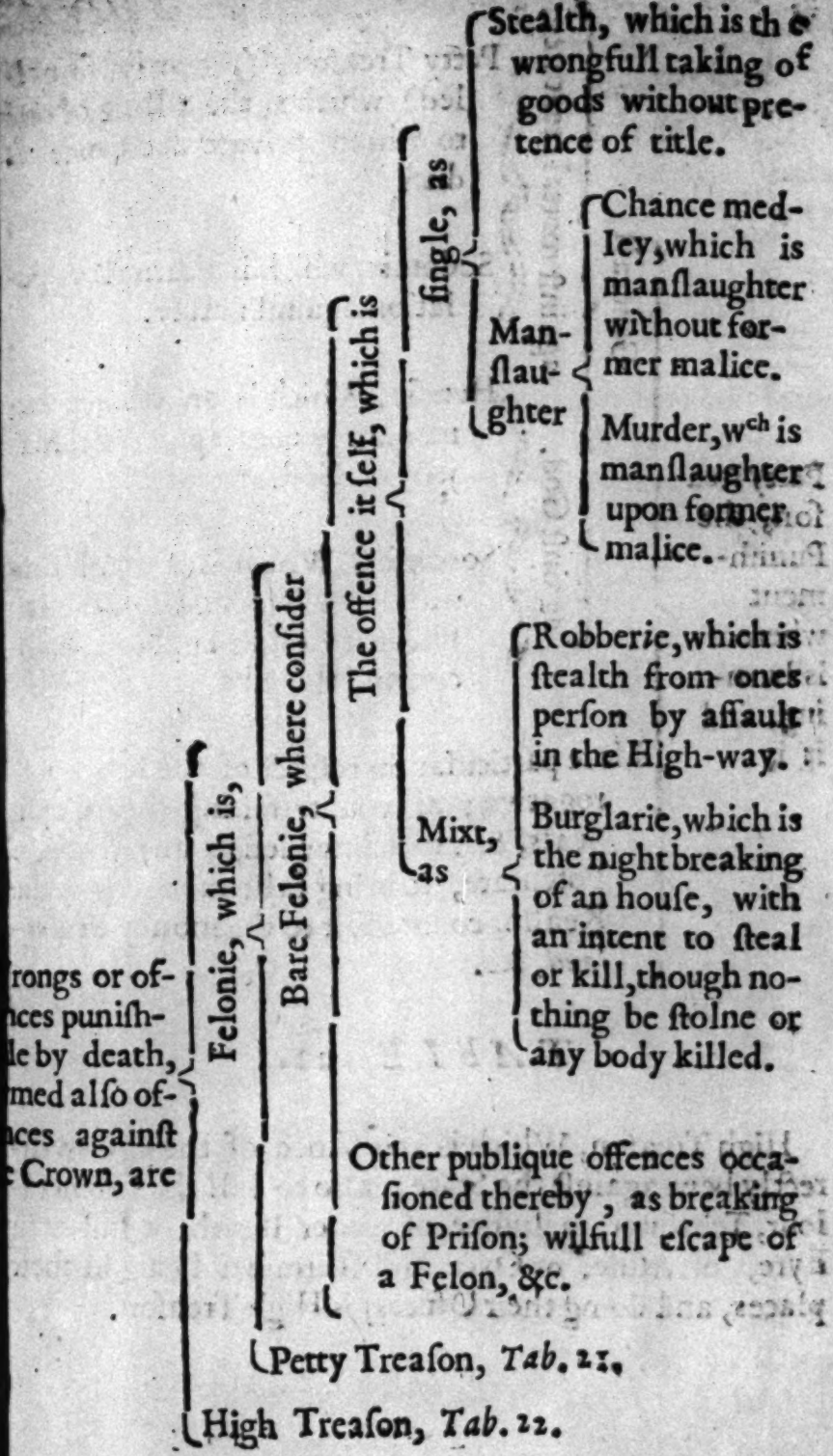
TABLE 18.

4. Publique Offeces againſt the wealth of the Common-wealth, and that may be

- In the courſe of Trade, as
  - 1. To tranſport the commodities of the Realm without the Kings Licence, & paying his Cuſtome; Foreſtallers, Regradors, and Ingroſſers, Monopolies, Conſpiracies of Merchants, falſe Weights and Meaſures, &c.
  - 2. Uttering corrupt Victuals.
  - 3. Uſury, and all Oppreſſion.
- Out of the courſe of Trade, as Depopulation, Burning of Houſes, Barns, &c.

§. Publique offences againſt the Paſſages of the Commonwealth, as Bridges, Cawſeys, High-wayes, or Streets, broken down or diged up: Unto which place may alſo be referred Common Nuſances, Purpreſtures, &c. Such Nuſances any man may abate: And as to Nuſances, there is a Writ in the Regiſter for any perſon that will ſue, when the Wayes, Streets or Lanes of any Town, City or Borough Corporate, or the Suburbs thereof are full of dirt, ſoile or the like, whereby infection may be cauſed: And this Writ may be directed to the Major, or the like, to cauſe them to be cleanſed, and kept clean: There is alſo another Writ for removing a Leper, to prevent Infection; both which Writs will come hereafter to be mentioned in their proper places.

TABLE 20.


Stealth, which is the wrongfull taking of goods without pretence of title.
Chance medley, which is manslaughter without former malice.
Manslaughter
Murder, wch is manslaughter upon former malice.
single, as
The offence it self, which is
Robberie, which is stealth from ones person by assault in the High-way.
Burglarie, which is the night breaking of an house, with an intent to steal or kill, though nothing be stolne or any body killed.
Mixt, as
Bare Felonie, where consider
Other publique offences occasioned thereby, as breaking of Prison; wilfull escape of a Felon, &c.
Felonie, which is,
rongs or offences punishle by death, med also offences against e Crown, are
Petty Treason, Tab. 21.
High Treason, Tab. 22.

Petty treason, the Punishment whereof is burning, and it is

Generall

against moral creatures.

Petty Treason, (properly so called) which is the killing of one to whom private obedience is due,

Sodomie, which is a carnall copulation against nature.

against God.

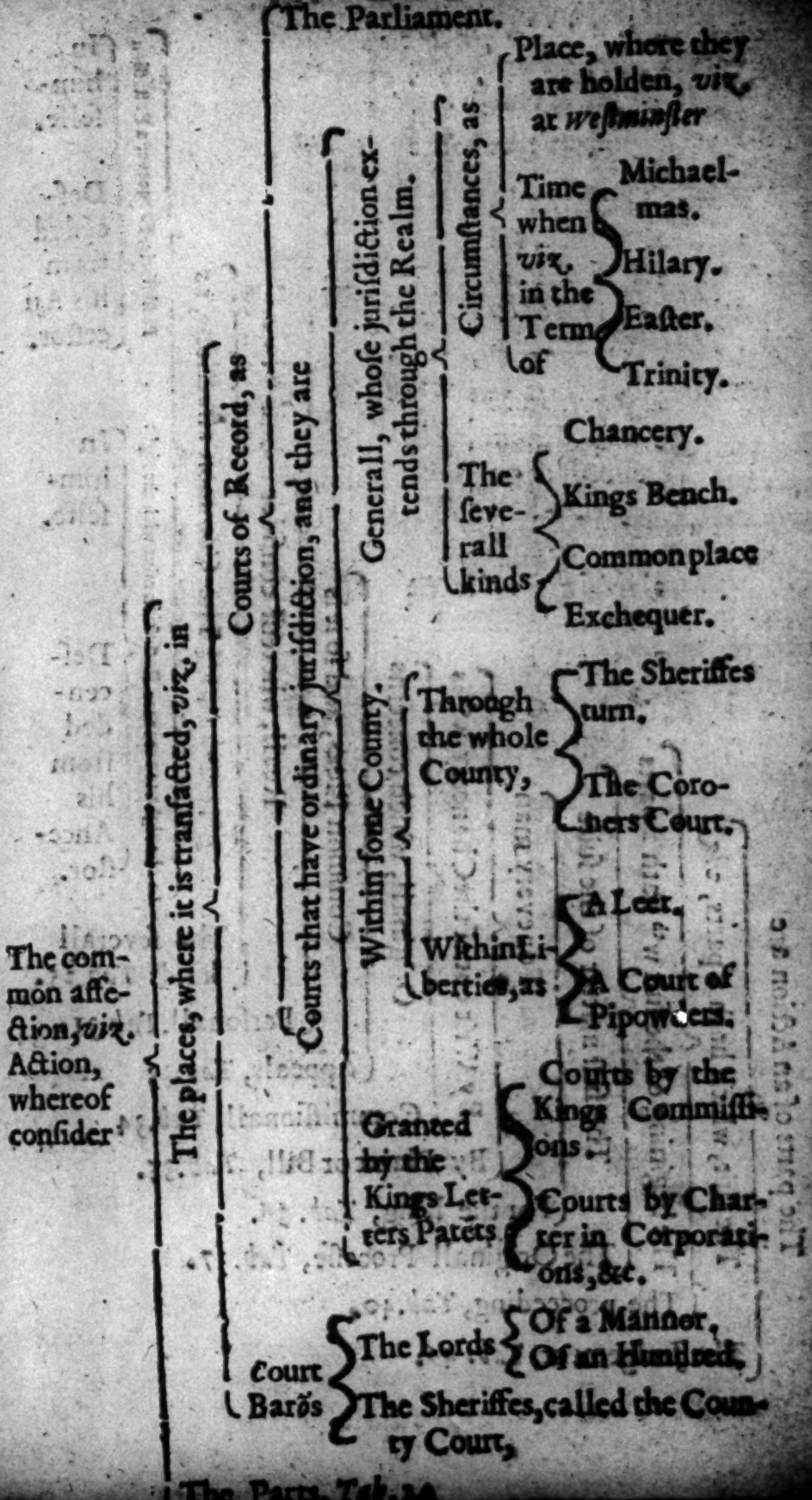
Heresie, Which is an offence immediately bent against the Majesty of God,

Sorcerie, Which is a consulting with Devils, and containeth under it Conjuring, Necromancie, and the like.

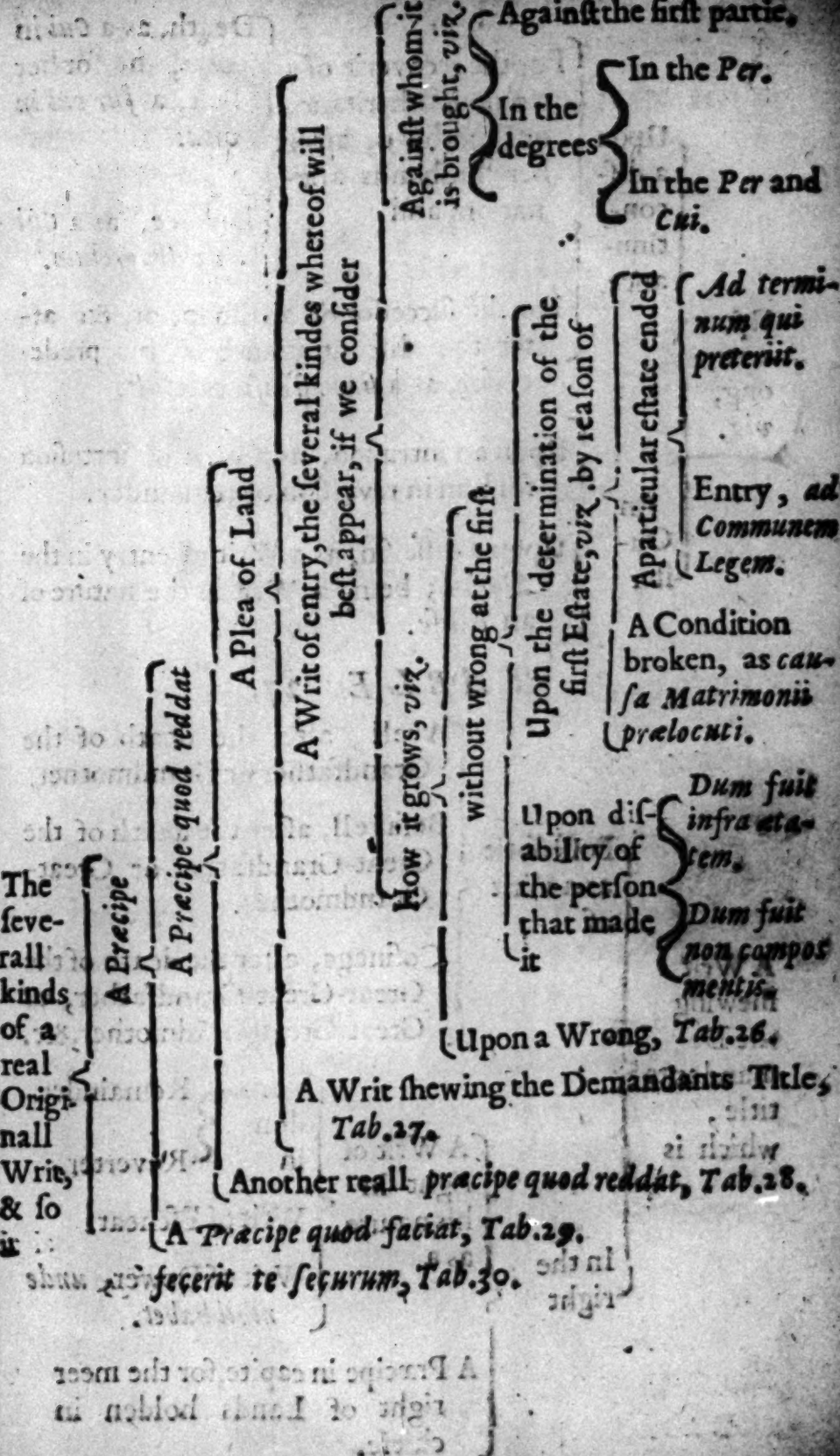
More particular in respect of the Kings prerogative; as counterfeiting his Coyn, Seals, &c. to acknowledge any forreign Potentate, to bring false money into the Realm, counterfeit to the money of *England*, &c.

TABLE 22.

High Treason, Which is an offence of the Crown directly bent against the State; also to kill the Chancellour, Treasurer; a Justice of either Bench, a Justice in Eyre, of Assise, or Oyer and Terminer being in their places, and doing their Offices, is High Treason.


The Parliament.
Place, where they are holden, viz. at Westminster
Time when viz. in the Term of
Michaelmas.
Hilary.
Easter.
Trinity.
Circumstances, as
Generall, whose jurisdiction extends through the Realm.
Courts of Record, as
Chancery.
The severall kinds
Kings Bench.
Common place
Exchequer.
Courts that have ordinary jurisdiction, and they are
Within some County.
Through the whole County,
The Sheriffes turn.
The Coroners Court.
Within Liberties, as
A Leet.
A Court of Pipowders.
The places, where it is transacted, viz. in
The common affection, viz. Action, whereof consider
Granted by the Kings Letters Patents
Courts by the Kings Commissions.
Courts by Charter in Corporations, &c.
Court Barõs
The Lords
Of a Manner.
Of an Hundred.
The Sheriffes, called the County Court.

The parts of an Action are
- The ſuit, which hath 2 parts, *viz.*
  - The begining of the ſuit wch hath 2 parts
    - The firſt matter of the ſuite
      - For every man
        - By Writ out of the Chancery, wch is
          - Originall, which concerns
            - Common Pleas, and ſo it is
              - Reall, whereof conſider
                - The Common affections, as
                  - Poſſeſſorie, To recover a Poſſeſſion
                    - In himſelfe.
                    - Deſceded from his Anceſtor.
                  - In the right, to recover a Poſſeſſion mixt with the right
                    - In himſelfe.
                    - Deſcended from his Anceſtor.
                - The ſeverall kinds *Tab.* 25.
              - Perſonall. *Tab.* 31.
            - Appeals, *Tab.* 33
          - Commiſſionall, *Tab.* 34
        - By Plaint or Bill, *Tab.* 35.
      - For the King, *Tab.* 36.
    - The Originall Proceſſe, *Tab.* 37.
  - The proceeding, *Tab.* 40.
- The Judgement, *Tab.* 46.


The severall kinds of a real Originall Writ, & so it
A Precipe
A Precipe quod reddat
A Plea of Land
A Writ of entry, the severall kindes whereof will best appear, if we consider
How it grows, viz.
Against whom it is brought, viz.
Against the first partie.
In the degrees
In the Per.
In the Per and Cui.
Upon the determination of the first Estate, viz. by reason of
A particular estate ended
Ad terminum qui præteriit.
Entry, ad Communem Legem.
A Condition broken, as causa Matrimonii prælocuti.
without wrong at the first
Upon disability of the person that made it
Dum fuit infra ætatem.
Dum fuit non compos mentis.
Upon a Wrong, Tab. 26.
A Writ shewing the Demandants Title, Tab. 27.
Another reall præcipe quod reddat, Tab. 28.
A Præcipe quod faciat, Tab. 29.
fecerit te securum, Tab. 30.

- Upon a wrong, viz.
  - Upon a discontinuance.
    - For the recoverie of a womans Inheritance or Free-hold, after her husbands alienation, and
      - Death, as a *Cui in vita*, and for her heir, a *Sur cui in vita*.
      - Divorce, as a *Cui ante divorcium*.
    - For the successor of a Bishop, or, &c. after the discontinuance of his predecessor, as a *sine assensu capituli*.
  - An Ouster
    - Upon an intrusion, as a Writ of intrusion for him in reversion or remainder.
    - Upon a disseisin, as a Writ of entry in the *Quibus*; being a Writ in the nature of an Assise.

TABLE 27.

- A Writ shewing the Demandants title, which is
  - Possessorie as a Writ of
    - Ayell, after the death of the Grandfather or Grandmother.
    - Besayell, after the death of the Great-Grandfather or Great-Grandmother.
    - Cosinage, after the death of the Great-Great-Grandfather, or Great-Great-Grādmother, &c.
  - In the right
    - A Writ of right in his nature, as a
      - Formdon in
        - Remainder.
        - Reverter.
      - Writ of Escheat.
      - Writ of Dower, *unde nihil habet*.
    - A Præcipe in capite, for the meer right of Lands holden in chiefe.

Another reall præcipe *quod reddat*, in respect of a seigniorie, as
- A Writ of right of Ward, to recover the Wardship.
- A Writ of right for disclaimer, for the Lord to prove the Lands to be holden of him, when the Tenant in a Court of record disclaimeth to hold of him.

A reall præcipe, *quod faciat*, which is either to recover an
- Hereditament, and this is either
  - In respect of a Seigniorie
    - A Writ, *de consuetudinibus & servitiis*
    - *Secta ad molendinum.*
  - To recover som other heredita.
    - A *Quare Impedit.*
    - A *Quod permittat.*
- Some reall thing that concerns an hereditamét, as
  - *A Curia claudenda.*
  - A Writ of Covenant, as to leavie a fine of Lands, &c.
  - Writs in the nature of a covenant reall
    - A Writ of Mesne.
    - A *Warantia Cartæ.*

TABLE 30.

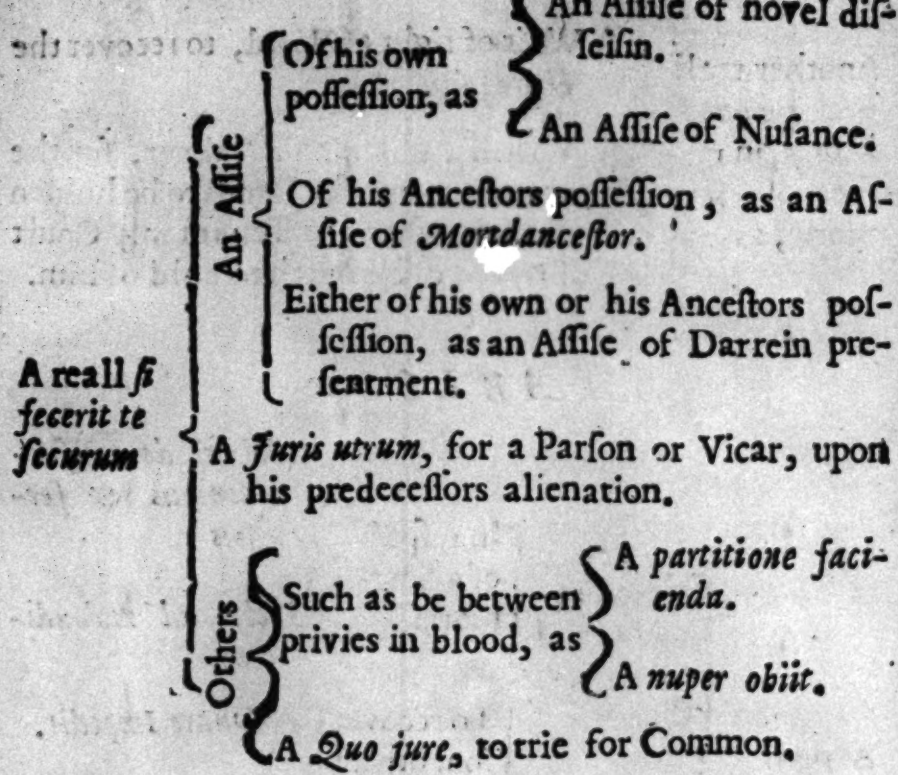
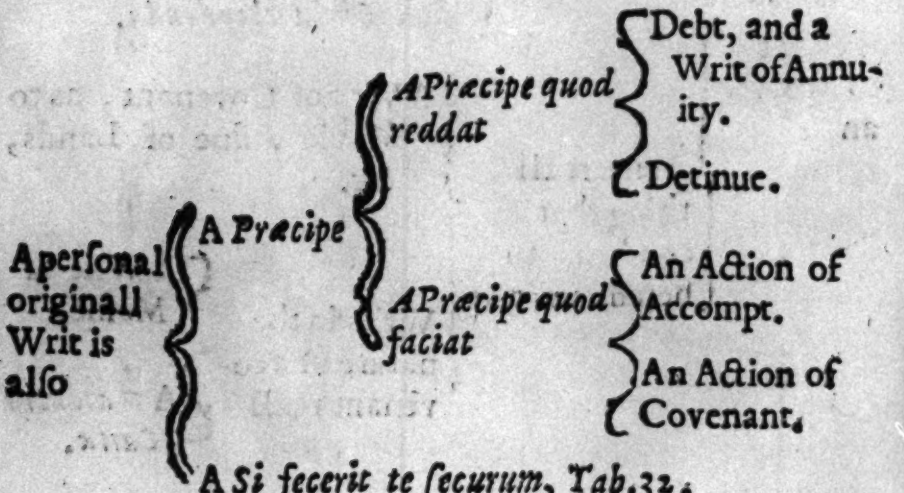


TABLE 31.



A personal *si fecerit te securum*, which is

- Without force
  - Where the peace is not broken
    1. *Rationabili parte bonorum.*
    2. *Valore Maritagii.*
    3. Writ of forfeiture of marriage.
    4. Intrusion of Ward.
    5. *Electione custodiæ.*
    6. *Quare ejecit infra terminum.*
    7. Trespasses upon the Case, not against the peace.
  - Where the peace is broke, yet not *Vi*, as
    - An Action of deceit.
    - An Action of conspiracie.
- With force
  - An Action of Trespasse.
  - Speciall Actions of Trespas, as
    - *De parco fracto.*
    - *Rescous.*
    - *Ejectione firmæ.*

TABLE 33.

An Appeal which concerneth life, and is the parties private action, prosecuting also for the Crown, in respect of a Felonie; And this is given only to the heire of the partie slain.

TABLE 34

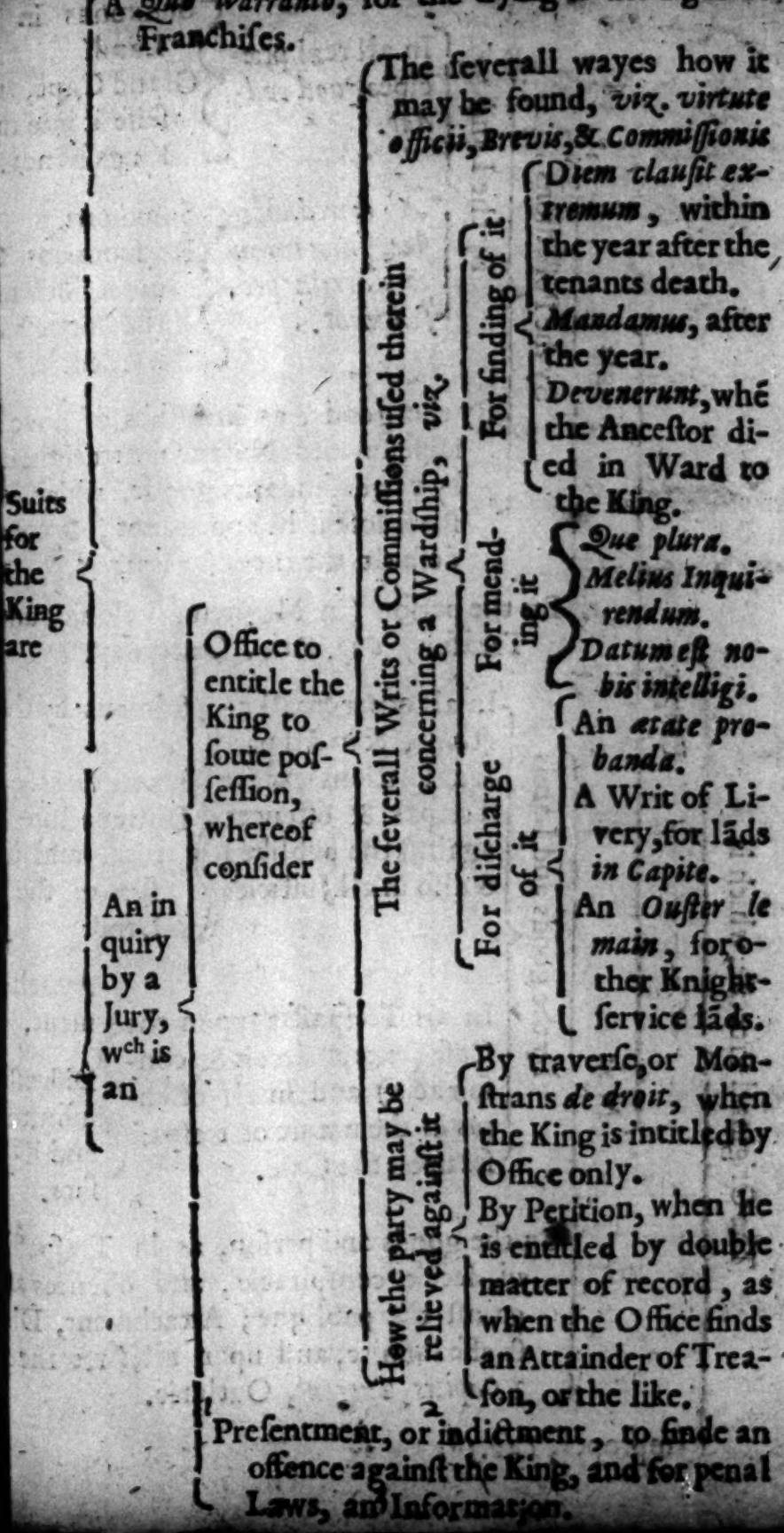
A Commissionall Writ, which is either

- Commissionarie, as
  - A Writ of right Patent.
  - A *Justicies*
    - An assise of petty nusance.
    - Admeasurement of Dower.
    - Admeasurement of Pasture.
    - *A nativo habendo.*
    - *A Rationabilibus divisis.*
    - *A homine replegiando,*
    - A Replevin.
    - Also many of the actions that went before; as *Consuetudinibus & Servitiis, serta ad molendinum, Quod permittat,* Mesne, Dower *unde nihil habet,* Annuitie, Debt, Detinue, Covenant, Trespass, &c. to what summe soever may be brought and also determined in the County by Justicies.
- Meer Commissions, as
  - *Oyer and Terminer.*
  - Association.
  - *Si non omnes.*
  - *Ad quod damnum.*
  - *Perambulatione facienda.*

TABLE 35.

In Courts that hold plea without original Writ, the suite may be by

- Plaint, in matters that concern Common pleas.
- Bill, In pleas of the Crown; also Officers of any Court (by priviledge) may sue or be sued there, and not elsewhere by Bil.


A Quo warranto, for the trying of the right of Franchises.
Suits for the King are
An inquiry by a Jury, wch is an
Office to entitle the King to soute possession, whereof consider
The severall Writs or Commissions used therein concerning a Wardship, viz.
For finding of it
Diem clausit extremum, within the year after the tenants death.
Mandamus, after the year.
Devenerunt, whē the Ancestor died in Ward to the King.
For mending it
Que plura.
Melius Inquirendum.
Datum est nobis intelligi.
For discharge of it
An ætate probanda.
A Writ of Livery, for lāds in Capite.
An Ouster le main, for other Knight-service lāds.
How the party may be relieved against it
By traverse, or Monstrans de droit, when the King is intitled by Office only.
By Petition, when he is entitled by double matter of record, as when the Office finds an Attainder of Treason, or the like.
Presentment, or indictment, to finde an offence against the King, and for penal Laws, an Information.

The Originall Proceſſe, which is

- Proper
  - Single
    - By the Land
      - In all real præcipes *quod reddat*.
        - Summons in Land.
        - Grand Cape, to ſeiſe it into the Kings hands.
      - *A mortdancester, Furis utrum & darrein preſentment.*
        - Summons.
        - Re-ſummons, & upon default the Inqueſt awarded.
    - By the Poſſeſſions
      - By the goods, as in Aſſiſes of novel Diſſeiſin and Nuſance, Attachment by the defendants goods, which he ſhall loſe if he appear not, & upon default the Inqueſt awarded.
      - By the perſon (in Mayhem, Felonie, and Treaſon) *Cap. Exig.* Outlawry.
  - Mixt
    - By the goods and Lands
      - In all other reall actions, & in all perſonal actions (except Treſpas & offences againſt the publike) & alſo in all Juſticies
        - Sũmons by the goods.
        - Attachment.
        - Diſtreſſe Infinite, and iſſues of the Land.
      - In all Treſpaſſes upon the Caſe (except deceit & conſpiracie) and in all offences in the nature of treſpaſſes upon the Caſe.
        - Attachment.
        - Diſtreſſe infinite and iſſues.
    - By the goods and perſon, as in Treſpaſſe *vi*, deceit, conſpiracie, and offences againſt the publiqne; Attachment, Diſtreſſe infinite, and upon *nihil* returned 3 *Capias*, *Exigent*, Outlarie.
- Improper, *Tab.* 38.

Improper, which is not to bring any matter into plea, or ſolemne action, but only to do or leave undone ſomething, and it is

Commaundatorie, as

- *Dote aſſignanda.*
- *Homagio capiendo.*
- *Scutagio habendo.*
- *De Corrodio habendo*
- *De Annua penſione hab.*
- *De Libertatibus alloc.*
- *De executione Judicii.*
- *De reſtitutione Temporalium.*
- *De ſecuritate pacis.*
- *De vi laica removenda.*
- Of cleanſing ſtreets.
- *De excomunicato capiendo.*
- *De excomunicato deliberãdo*
- *De leproſo amovendo.*
- *De cautione admittenda.*
- *De heretico comburendo.*
- *De Coronatore exonerando.*
- *De Coronatore eligendo*
- *De exoner. vir. foreſt.*
- *De Electione vir. foreſt.*
- A Writ for the Royall aſſent, to elect an Abbot.
- *De ſecuritate invenienda.*
- All *dedimus poteſtatems, de fine levando, de attornato faciendo, &c.*

Prohibitorie, *Tab.* 39.

Prohibitorie, as

1. A Protection, *cum clauſula nolumus*, to free ones poſſeſſions, that nothing be taken againſt his will for the Kings buſineſſe.
2. To diſcharge ſpirituall perſons of Fifteens.
3. *Quod clerici non eligantur in Officium balivi, &c.*
4. To forbid Tenant in Dovver, by the Curteſie, or Guardian by Knight ſervice, or in Soccage to commit Waſt to the deſtruction of the Inheritance.
5. A *Quo minus*, for grantee of eſtovers, to reſtrain the grantors from committing vvaſte, ſo as he cannot have his Eſtovers.
6. *De exoneratione ſectæ*, for Tenants by ſuit of Court or other ſervices, that they be not diſtrained to do the ſame for ſuch time, as they ought to hold the Land diſcharged.
7. *De deonerando pro rata*, to diſcharge the Tenant of parcell of the Land according to the rate of his Land, vvhen he is lawfully diſtrained for all the rent and ſervices.
8. *De eſſendo quieto de Thelonio.*
9. *De non ponendo in Juratis.*
10. *Ne exeas regnum.*

The Proceeding, which consists in

- The Count, or Declaration.
- The pleading, which Pleas are
  - The Defendants first pleas, *viz.*
    - Dilatorie, by taking
      - Exceptions
        - In disability
          - To the jurisdiction of the Court.
          - To the person.
        - In Abatement
          - To the Writ, as default of form, false Latine, &c. and here, if the default be not caused by the Plaintiffe, a new Writ may be had by *journeys accounts*,
          - To the Count, as insufficiencie, variance from the Writ, &c.
      - Forain advantages
        - In all actions, as Oyer of the Writ, condition, &c.
        - In reall actions, as
          - View.
          - Ayde prayer,
          - Voucher.
        - In certain personal actions
          - Garnishment.
          - Enterpleader, which may also be in a *Quare impedit*.
      - Sanctuarie, and there continuing, *viz.* for Treason, and other capital offences.
    - To the action, as
      - Pleas in Barre.
      - Confessions, to which place Abjuration may be referred, when one guilty of Bare Felonie flyeth to the Church, &c, and there before the Coroner confesseth the Fact, and abjures the Realm.
  - The mutual pleas of Plaintif & Defen. *Tab.* 41
- Other mean acts, *Tab.* 42.

The mutuall pleas of Plaintiffe and Defendant, viz.

- The delating before issue, as replication, rejoynder, sur-rejoynder, &c.
- The issue it selfe
  - Of the fact, and then the triall is
    1. Of a matter done in the Country, by Jury, where challenges are allowed, *viz.*
       - To the Array.
       - To the Pols.
    2. In Writs of right or appeals for life, by Battail.
    3. In a Writ of Dower (when the issue is taken upon the death of her husband) by witnesse.
    4. By wager of Law.
       1. When the Tenant in a reall *præcipe quod reddat* was not summoned.
       2. In meer personal actions growing without deed or privity of others.
       3. In plaints in Court Barons.
  - Of the Law, as a Demurrer, which is, when (admitting the matters alleadged) either of them resteth in the Judgement of the Law.

Other mean Acts, as

Other mean Acts, as

1. Appearance where, of esſoins, which are
   - Common, as *Eſſoine de mal venir.*
   - Special
     1. of going beyond Sea.
     2. Of going *ad terram Sanctam.*
     3. Of the Kings ſervice.
     4. *De malo lecti.*

2. Continuance
   - By Proceſſe.
   - Upon the Roll
     - *Dies datus.*
     - *Emparlance.*

3. Judiciall proceſſe
   - A meſne proceſſe, which is for any neceſſary act to be done, as
     1. Upon a fine leavied to compel attornment, as
        1. *Per quæ ſervitia.*
        2. *Quem reddit reddit.*
        3. *Quid juris clamat.*
     2. In Petitions, a Writ of ſearch.
     3. In real *præcipes*, upon a default, a petty Cape.
     4. Upon default after Voucher, a Petty Cape *ad valentiam.*
     5. In ſuch as are for other Hereditaments, upon default, a diſtreſs.
     6. Againſt Jurors
        1. A *Venire facias.*
        2. A *Habeas Corpora.*
        3. A Diſtreſſe infinite,
   - Proceſſe in nature of new Originals, *Tab.* 43.

Processe in the nature of new Originals, and they are

Commandatorie, viz. such as command something to be done.

1. Resommons, re-attachment.
2. All certificatorie Writs.
3. A Certiorari to remove a Record into the Chancery.
4. Writs to remove suits
   - By Writ, as a
     - Tolt, to remove a Writ of right out of the Lords into the County Court.
     - Pone, to remove out of the Lords court into the common Place in all other cāses.
   - by Plaint, as a
     - *Recordare*, to remove Plaints in the County Court.
     - *Accedas ad curiam*, to remove plaints in a Court Baron.
5. A Mittimus, to send a record out of the Chancery into another Court of Record.
6. A Procedendo, to proceed in suits.
7. A Consultation, to proceed in the Spirituall Court.
8. A Writ of Mainprise, to set one at liberty upon baile.
9. *&c. Tab.* 44.

Prohibitorie Writs, *Tab.* 45.

9. A Recaption for him, whose goods are distrained for the same thing.

10. A Writ *de Magna Assisa eligenda.*

11. A Certificat of Assise to Jurors, to give a more perfect Verdict.

12. A *Proprietate probanda.*

TABLE 45.

Prohibitorie Writs, or Process, as

1. Prohibitions, of this kinde is an *Indicavit.*

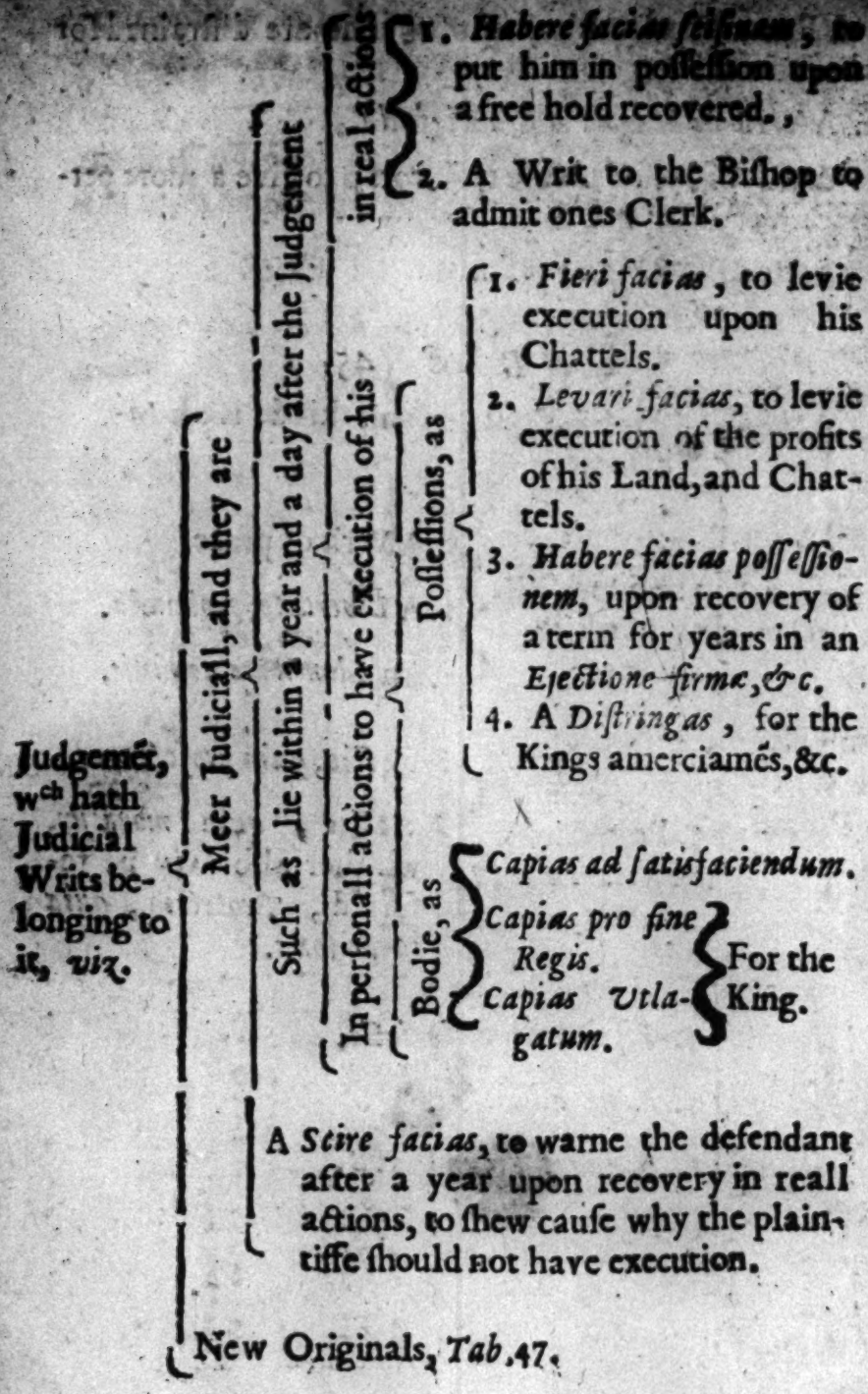
2. A Supersedias, of which kinde are
   1. A Writ of peace.
   2. A *Libertate probanda.*
   3. An *Identitate nominis.*

3. Protections *cum clausula volumus*, as
   - *Protectio, quia profecturus.*
   - *Protectio, quia moratur*, whither also may be referred, *Protectio, quia in prisona.*

4. *Essoine de malo lecti.*

5. A *ne admittas.*

6. A *quare incumbravit.*


Judgemẽt, wch hath Judicial Writs belonging to it, viz.
Meer Judiciall, and they are
Such as lie within a year and a day after the Judgement
In reall actions
1. Habere facias seisinam, to put him in possession upon a free hold recovered.,
2. A Writ to the Bishop to admit ones Clerk.
In personall actions to have execution of his
Possessions, as
1. Fieri facias, to levie execution upon his Chattels.
2. Levari facias, to levie execution of the profits of his Land, and Chattels.
3. Habere facias possessionem, upon recovery of a term for years in an Ejectione firmæ, &c.
4. A Distringas, for the Kings amerciamẽs, &c.
Bodie, as
Capias ad satisfaciendum.
Capias pro fine Regis.
Capias Utlagatum.
For the King.
A Scire facias, to warne the defendant after a year upon recovery in reall actions, to shew cause why the plaintiffe should not have execution.

New Originals in the nature of Judiciall Writs, to order some matters concerning Judgements, and these are grounded

Upon an Error

A Writ of Error, which is upon an Error in a Court of Record.

A Writ of false Judgement, which is upon an error in a base Court.

Otherwise, as

Attaint, which is to enquire, whether a Jury of 12 men gave a false Verdict.

Audita querela, which is for one being, or to be in execution, to relieve him upon good matter of discharge which he hath no means to plead.

A TABLE shewing the Pages in the Engliſh Copie of Sir *Henry Finches* Treatiſe of the Law, from whence each Tablet takes its beginning.

Table	Page
1	77
2	95
3	106
4	111
5	116
6	130
7	134
8	155
9	159
10	164
11	167
12	184
13	190
14	198
15	205
16	*Theſe are taken out of the French copie being omited in the Engliſh.*
17	
18	
19	
20	206
21	218
22	221
23	225
24	249
25	252
26	264
27	266
28	269
29	272
30	284

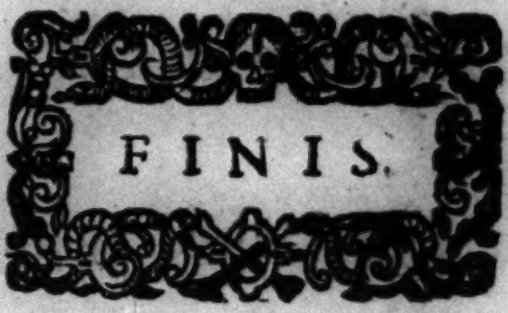



Table	Page
31	294
32	303
33	310
34	312
35	320
36	322
37	343
38	490
39	502
40	356
41	390
42	427
43	441
44	446
45	450
46	459
47	478